

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
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Instruction Memorandum No. 2005-058
Expires: 09/30/2006

To: WO Officials, State Directors, and Center Directors
Attn: Deputy State Directors, State Office Planning and Environmental
Coordinators

From: Assistant Director, Renewable Resources and Planning

Subject: New Cooperating Agency Reporting Procedures/Requirements for
EIS's and EA's DD: 11/30/2005

Program Area: Environmental compliance – Cooperating Agency (CA) procedures.

Purpose: This Instruction Memorandum (IM) establishes the Council on Environmental Quality's (CEQ) new reporting procedures/requirements and format for reporting CA's participation in the Bureau's EIS and EA processes.

Background: CEQ issued updated guidance on CA status in implementing NEPA in January 2002. As part of that guidance and to measure "progress in addressing the issue of CA status," CEQ initiated biannual data calls to Federal agencies covering both EIS's and EA's begun during those 6-month time frames (March 1, to August 31, and September 1, to February 28/29).

A CA is any Federal, State, or local governmental agency or Indian Tribe that has either jurisdiction by law or special expertise regarding environmental impacts of a proposal or reasonable alternative for a major Federal action significantly affecting the quality of the human environment (see 40 CFR 1501.6 and 1508.5). Although this definition would appear to limit CA procedures to EIS-level actions, in its memorandum CEQ extended the procedures for possible, occasional use in the preparation of EA's.

Policy/Action: This memorandum contains new guidance issued by CEQ's Chairman (attachment 1) on December 23, 2004, that updates the January 2002 guidance which ends the six month reporting requirement and establishes an improved reporting mechanism. The new procedures/requirements and reporting format are based on recommendations from Federal agencies to more accurately measure their progress in assuring CA status to Federal and non-Federal governmental bodies that qualify for such status.

Federal agencies responsible for preparing NEPA analyses will now report to CEQ once each fiscal year (FY). The report to CEQ will be due three months after the close of the FY. For example, the first such report for October 1, 2004 through September 30, 2005 will be due on January 3, 2006.

For EIS's with a Notice of Intent published between October 1, 2004 and September 30, 2005, the lead agency will report: (1) the title of the EIS; (2) the names of the CA's for the EIS; (3) the names of agencies who declined an invitation to participate as a CA or who requested but failed to reach agreement on establishing CA status and agencies whose CA status was ended, and the reason(s) CA status was not established or was ended; and (4) the current status of the EIS (attachment 2). Reports after FY 05 would include updates to previous reports on EIS's. The reporting agency will provide updated information (for example: new and/or terminated CA's; new EIS status) in subsequent FYs by submitting the previous EIS report with new information inserted and highlighted.

For EA's, the lead agency will report: (1) the number of EA's completed between October 1, 2004 and September 30, 2005; (2) the number of those EA's which included participation of one or more CA's; and (3) the reasons agencies did not accept invitations or reach agreement to participate as CA's, or ended the CA status prior to completing the EA (attachment 2).

You will provide information on EIS's begun during the fiscal year reporting period, and on EA's completed during the fiscal year reporting period. For purposes of this report, an EIS is begun when the Notice of Intent (NOI) is published in the Federal Register, and an EA is completed when a Finding of No Significant Impact (FONSI) is completed or a NOI to prepare an EIS is published.

CA status under NEPA is not equivalent to other requirements calling for an agency to engage another governmental entity in a consultation or coordination process (e.g., Endangered Species Act section 7, National Historic Preservation Act section 106).

Major Changes: The major changes are: (1) increase the reporting period from six to twelve months; (2) align the reporting period with the fiscal year; (3) decrease the amount of information reported; (4) simplify the identification of challenges or barriers to establishing CA status; and (5) report completed rather than initiated environmental assessments. The attached document "Frequently Asked Questions and Answers" (attachment 3) will address major changes plus additional questions to help clarify further concerns you may have.

Time Frame: This IM is in effect as of the date signed.

Reporting Period: The first reporting period is October 1, 2004 through September 30, 2005. Information from the BLM State Offices for this reporting period must be received in WO-210 electronically or hard copy by November 30, 2005. The Bureau must provide a consolidated report to the Office of Environmental Policy and Compliance (OEPC) by December 16, 2005, which must report to CEQ by January 3, 2006.

If you have any questions concerning this memorandum, please contact Jordon Pope, Senior Planning and NEPA Analyst @ (202) 452-5048 or e-mail jordon_pope@blm.gov.

Signed by:
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Deputy Assistant Director
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Authenticated by:
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3 Attachments

- 1 - CEQ's Guidance.CA (2 pp)
- 2 - CA – Report to the Council on Environmental Quality (3 pp)
- 3 - CA – Frequently Asked Questions and Answers (3 pp)